

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

L.V. individually and on behalf of J.V.2

Plaintiffs,

Time Records and Notes resulting in
Rule 68 Judgment Offers
Oroma Mpi-Reynolds, Esq.

-against-

Civil Action, File No.
19-cv-5451 (AT) (KHP)

NEW YORK CITY DEPARTMENT OF EDUCATION,
Defendant.

MONETARY DAMAGES CLAIMS

May 21, 2020

0.1 hours

Review of article forwarded by Parent on compensatory damages claim for inadequate education during the pandemic, send preliminary response to Parent.

May 22, 2020

0.4 hours

Draft and submit extensive advisory memo to Parent regarding risks of intentional discrimination claims.

May 24, 2020

0.6 hours

Conduct update legal research on intentional discrimination claims in Section 504 cases (0.6), send advisory email to the Parent (No charge).

June 14, 2020

0.4 hours

Update legal research on compensatory, special, and general damages in preparation for Oral Argument on Motion to Dismiss.

June 18, 2020

0.2 hours

Telephone conference with prior counsel regarding late Notice of Claim issue and attorneys fees.

June 18, 2020 0.4 hours

Telephone conference with Parent regarding parameters of settlement.

June 18, 2020 0.6 hours

Perform legal research on jury awards for damages in damages cases (0.5), make notes to file (0.1).

June 19, 2020 0.4 hours

Telephonic meeting with Parent's original attorney to discuss settlements for monetary damages, including retaliation claim.

June 19, 2020 0.1 hours

Exchange electronic correspondence with Parent regarding Law Department Attorney's request for full demand inclusive of fees.

June 19, 2020 0.7 hours

In preparation for compiling settlement demand, review Second Circuit cases regarding final dispositions of similar claims.

June 20, 2020 1.7 hours

Receipt and review of Parent's email regarding settlement demand (0.2), review and analyze T.H. v. Dep't of Educ. case involving emotional damages and make notes to file (0.4), review summary of out-of-State jury award for retaliation (0.2), draft revise, and submit advisory memorandum to Parent regarding five items for resolution in settlement demand (0.9).

June 20, 2020 0.8 hours

Consultation with physician to aid in valuing emotional distress.

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| June 21, 2020 | 0.5 hours |
| Prepare and submit to Parent advisory memorandum regarding proposed outline for settlement demand, including calculations for Student's damages, Parent's damages, and punitive damages. | |
| June 21, 2020 | 0.9 hours |
| Telephone conference with Parent to discuss settlement demand proposal inclusive of monetary claims and attorneys fees. | |
| June 21, 2020 | 0.8 hours |
| Draft cover memorandum to settlement demand in 1:19-cv-05451-AT-KHP. | |
| June 21, 2020 | 4.6 hours |
| Draft 10-page Proposed Stipulation on Discontinuance referring to Complaint exhibits, Cover Memorandum, and prior stipulation involving Defendant. | |
| June 21, 2020 | 0.1 hours |
| Exchange electronic communications with Parent regarding settlement demand. | |
| June 22, 2020 | 0.2 hours |
| Exchange email communications with Parent regarding drafted settlement demand and proposed order inclusive of fees. | |
| June 22, 2020 | 0.9 hours |
| Based on consultation with F. Brewington, and upon review of Rule 408 of the Federal Rules of Evidence (0.2), revise and update Settlement Demand Letter and submit draft for Parent review (0.7). | |
| June 22, 2020 | 1.2 hours |

Telephone conference with Parent to review line-by-line updated version of Settlement Demand Memorandum (0.5), discuss possibility of prospective relief (0.2), make adjustments to monetary demand (0.5).

June 22, 2020

0.1 hours

Exchange of electronic communications with Parent in relation to submission of Demand.

June 22, 2020

1.0 hours

Finalize all monetary figures in demand (0.3), final review of Demand Letter (0.3), review and update Proposed Stipulation to correspond with revised Demand Letter while reviewing all provisions for legal accuracy (0.4).

June 22, 2020

0.1 hours

Finalize Settlement Demand Letter and Attachments in pdf form and submit to the Law Department's attorney and notify Parent.

June 24, 2020

0.8 hours

Accept telephone call from Law Department Attorney to discuss Plaintiffs' settlement proposal.

June 25, 2020

0.2 hours

Send follow up email to Parent inquiring as to authorizing HIPAA releases or requesting settlement proposal within a week, review response on how to proceed.

June 25, 2020

0.2 hours

Update Law Department's draft of Case Status letter in light of Parent's requested change as related to HIPAA releases and settlement counter-proposal timeline.

June 25, 2020

0.6 hours

Telephone consultation with former personal injury attorney regarding fairness of Department's monetary offer, risks of trial, and client counseling.

June 26, 2020 0.3 hours

Telephone call from Law Department Attorney regarding settlement conference and authority to settle, discuss Parent's demands and impending counter proposal.

June 28, 2020 0.2 hours

Receipt and review of email correspondences from Parent regarding forensic psychologist's website pertaining to calculation of damages, send brief response (0.1), review Services section of forensic psychologist's website for applicability to case at hand (0.1).

June 28, 2020 2.6 hours

Conduct legal research on Infant Compromise Orders in New York City cases (1.0), search for monetary damages awards or settlements in student suspension cases and retaliation cases (0.7), make notes to file (0.3), review amended complaint filed in T.H. case and compare facts with the resulting settlement amounts (0.6).

June 28, 2020 2.4 hours

Draft client advisory memorandum containing summary of current status of negotiation (0.4), recommendation on reduced settlement demand (0.6), analysis of risks of litigation (0.5), and list of cases to highlight the range of Infant compromise orders (0.3), draft section pertaining to next steps for upcoming settlement conference (0.2), review and revise overall memo for legal accuracy and support (0.4).

July 2, 2020 0.9 hours

Telephone conference with Parent to discuss Client Advisory Memorandum, movement on damages figures including pros and cons of litigation, scheduling of hearing on emergency application, and request for written counter proposal.

July 2, 2020 1.1 hours

Review Magistrate Judge's Rules concerning Settlement Conferences and written settlement form and rationale (0.5), prepare and submit memo to Law Department with update on Parent's demands (0.4), receipt and review of inquiry from Parent regarding settlement rationale and send initial response as to strategy (0.2).

July 6, 2020

3.8 hours

Draft Attorneys fees section of Settlement Conference Summary Form, including citations to case law as relevant to support reasonable hourly rate (1.6), draft damages section of Settlement Conference Summary Form referring to details from Settlement Demand (1.3), draft administrative sections of Settlement Conference Summary Form relating to client names, summary of prior offers and demands, and other information to print to the Court's attention (0.8), submit to Parent for review and approval and review response (0.1).

July 9, 2020

1.4 hours

Receipt and review of written correspondence from Law Department Attorney regarding DOE's Proposed Stipulation and review Proposed Stipulation (0.5), send response to Law Department Attorney regarding attorneys fees demand (0.2), receipt and review of response from Law Department Attorney and draft and submit response in spirit of ongoing negotiations (0.5), receipt and review of response from Law Department Attorney regarding negotiations and send response (0.2).

July 11, 2020

0.9 hours

Draft, review, revise, and send Settlement Update Memo to Parent regarding status of negotiations.

July 12, 2020

0.2 hours

Draft, review, revise, and submit advisory client memorandum regarding Parent's inquiry on accepting original suggested offer of \$150K per person.

July 12, 2020

0.2 hours

Receipt and review of inquiry from Parent regarding ongoing enforcement of stipulation (0.1), review proposed stipulation form Law Department Attorney (0.1).

July 13, 2020

1.4 hours

Participate in preparation session for Settlement Conference at which Parent would appear for the first time, discuss format, issues, and expectations.

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| July 13, 2020 | 2.4 hours |
| Participate in Settlement Conference with Law Department Attorney, DOE Agency Attorney, Director of Special Education Unit, Magistrate Judge, and Parent, participate in breakout sessions with Parent and Judge and one-on-one advisory sessions with the Parent. | |
| July 13, 2020 | 0.2 hours |
| Debriefing call with Parent on follow up needed as per Magistrate Judge's directive. | |
| July 13, 2020 | 0.1 hours |
| Receipt and review of email from Law Department Attorney regarding attorneys fees timesheets and authorization for release of medical and ACS records and send response. | |
| July 14, 2020 | 0.3 hours |
| Preparation of timesheets. | |
| July 14, 2020 | 0.7 hours |
| Finalize invoice from Expense Reports and Timesheets (0.2), send to Law Department Attorney along with copy of MSR Legal's W-9 (0.1), receipt and review of inquiry from Law Department Attorney regarding evaluating hourly rate (0.1), review and update resume and send to Law Department Attorney (0.3). | |
| July 15, 2020 | 0.9 hours |
| Draft client advisory memorandum to Parent regarding recommendations for Case Coordinator stipulation in light of declination on monetary damages, searching for trial counsel who can front costs of expert witnesses (0.7), review and revise memorandum for legal accuracy and support and place in final form before submitting to Parent (0.4). | |
| July 15, 2020 | 0.1 hours |
| Send Law Department Attorney copy of press kit and other published materials to aid Law Department Attorney in evaluating hourly rate in lieu of curriculum vitae requested by Law Department Attorney. | |

July 16, 2020

0.2 hours

Draft, review, adjust, and send response addressing Parent's request to discuss T.H. case with Nelson, negotiating monetary damages, and filing a letter with the Court regarding status of implementation (0.2).

July 17, 2020

0.2 hours

Send correspondence to Law Department Attorney regarding resumption of talks on monetary damages in light of Magistrate's Report on Motion to Dismiss (0.1), review response from Law Department Attorney regarding limitations on monetary damages and send response (0.1).

July 20, 2020

0.7 hours

Draft and submit memorandum to Parent in response to her inquiry on proceeding to trial (0.3), following receipt of inquiry from Parent, send advisory email regarding right to file written objections to the Report (0.2), obtaining expert witnesses, and appealing to Law Department executives (0.2).

July 21, 2020

0.1 hours

Prepare outline of new version of letter to Magistrate Judge adding points on attorneys fees.

July 23, 2020

0.1 hours

Include within advisory memorandum additional advice and counsel regarding outstanding issues for upcoming Settlement Conference including counter-proposal on monetary damages.

July 24, 2020

0.7 hours

Conduct update legal research on the availability of punitive damages in Section 504 retaliation cases (0.4), conduct legal research on issues for consideration in hearing on retaliation claim, *Aponte v. Pottstown Sch. Dist.* (0.3).

July 24, 2020

1.7 hours

Upon conducting update legal research on Federal Rule 26 (0.5), prepare Proposed Order for Confidential Limited Discovery Pursuant to Settlement and Protective Order following breakdown in negotiations on parameters of discovery with Defendant's Counsel addressing each issue remaining in contention to wit, ACS history, mental and physical health records (1.2).

July 26, 2020

0.5 hours

Revise proposed protective order on limited discovery to remove paragraphs and provisions pertaining to ACS history (0.1), add provision relating to payment of records (0.1), make adjustments to proposed protective order for legal accuracy (0.1), send updated advisory email to Parent with legal recommendations for Settlement Conference (0.2).

July 27, 2020

0.1 hours

Communicate Plaintiffs' counter-offer on monetary damages to Law Department Attorney.

July 27, 2020

0.1 hours

Receipt and review of reply from Law Department Attorney seeking support for Parent's counter-proposal on monetary damages (0.1).

July 27, 2020

0.1 hours

Participate in Settlement Conference with Magistrate Judge and Law Department Attorney regarding impasse.

July 27, 2020

0.2 hours

Draft and submit advisory memorandum advising Parent of status of negotiations post-Conference and action items for discussion and completion, namely signing the HIPAA and ACS authorizations.

July 28, 2020

0.3 hours

Update legal research on Rule 68 Judgment Offer (0.1), prepare outline of pre-trial submissions and case management conference (0.1), email Law Department regarding

timeframe for submitting Rule 68 Judgment Offer (0.1), receipt and review of response, and send new inquiries on HIPAA authorization and Case Coordinator stipulation (0.1).

July 28, 2020

0.2 hours

Receipt and review of Parent's minimal requirements for settlement and position on records release authorization (0.1), report back to Law Department Attorney (0.1).

July 29, 2020

1.4 hours

Review 7-page proposed discovery confidentiality agreement while making notes to file to use in advising Parent (0.5), draft provisions of case status update and send to Law Department Attorney pertaining to travel aide and several items of discovery explained in detail (0.6), receipt and review of email response from Law Department Attorney relating to parameters and process on discovery (0.1), send inquiry and additional paragraph for status email to Magistrate Judge, referring to draft case status letter from July 27, 2020 (0.2).

July 29, 2020

1.3 hours

Add detail to curriculum vitae requested by Law Department Attorney to include quantitative achievements from prior work experience, referencing records and files from prior legal representation.

July 30, 2020

0.3 hours

Receipt and review of Rule 68 Judgment Offers from Law Department Attorney for Parent and Student.

July 30, 2020

0.7 hours

Update legal research on terms and conditions of Rule 68 offers (0.4), draft and submit advisory memorandum to Parent on pros and cons of accepting Offer of Judgment (0.3).

FEE REQUESTED FOR MONETARY DAMAGES CLAIM

Number of Hours: 47.6

Federal Court Hourly Rate: \$450

Total: \$21,420

10% reduction for exercise of 'billing judgment': - \$2,142

Total Amount: \$19,278.

Dated: September 17, 2020

Affirmed under penalty of perjury,

s/

OROMA HOMA MPI REYNOLDS